

State and carried on by the members thereof solely for protection of their property, and not for profit; nor to purely co-operative, inter-insurance and reciprocal exchanges carried on by the members thereof solely for the protection of their property and not for profit.

Sec. 26a. This act shall go into effect and become operative from and after the first day of September, 1910, and not before.

Sec. 27. Chapter 18 of the General Laws of the Thirty-first Legislature, passed by its First Called Session and approved April 19, 1909, entitled "An Act providing the conditions upon which fire insurance companies shall transact business in this State; and providing for the regulation and control of rates of premiums on fire insurance and to prevent discriminations therein; and to create a fire insurance rating board; and to provide penalties for violation of this act, and declaring an emergency," and all other laws and parts of laws in conflict with this act are hereby repealed.

Sec. 28. The fact that there is now no sufficient law in this State prohibiting unjust discriminations in the collection of fire insurance rates as between citizens of this State; nor protecting citizens in securing reasonable rates, constitutes an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days to be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

SIXTEENTH DAY.

Senate Chamber,
Austin, Texas,

Monday, August 15, 1910.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum being present, the following Senators answering to their names:

Adams.	Hume.
Alexander.	Kauffman.
Brachfield.	Kellie.
Bryan.	Mayfield.
Cofer.	Meachum.
Greer.	Murray.
Harper.	Paulus.
Holsey.	Peeler.
Hudspeth.	Perkins.

Ratliff.	Terrell of Wise.
Real.	Ward.
Senter.	Watson.
Sturgeon.	Weinert.
Terrell of Bowie.	Willacy.
Terrell of McLennan.	

Absent.

Veale.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of Saturday, on motion of Senator Kellie, the same was dispensed with.

(See Appendix for petitions and memorials and committee reports.)

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

Senate bill No. 11, A bill to be entitled "An Act to amend Chapter 16 of the Acts of the Regular Session of the Thirty-first Legislature of the State of Texas, approved February 20, 1909, entitled 'An Act authorizing any county in the State of Texas having a population in excess of fifty thousand inhabitants by the last preceding United States census, to submit to the qualified voters the propriety of a bond issue for the construction and maintenance of causeways, viaducts, bridges and approaches across any rivers within the limits of such county, and to provide for the construction, maintenance and use of such causeways, viaducts, bridges and approaches, and declaring an emergency,' by adding thereto Sections 9a and 9b, providing a method by which counties may acquire land upon which to construct and maintain said causeways, viaducts, bridges and approaches, by condemnation, and by grant from cities and counties of the right to use streets, alleys, public highways and public grounds, and to authorize counties to construct said causeways, viaducts, bridges and approaches across the lines of railway, telegraph and telephone corporations, and the method thereof, and declaring an emergency."

Senate bill No. 21, A bill to be entitled "An Act to authorize and empower Lamar county or any political subdivision of said county by a vote of a

two-thirds majority of the resident property taxpayers, qualified voters of such county or political subdivision thereof, voting thereon, to issue bonds to any amount, not exceeding one-fourth of the assessed valuation of the real property of such county or of such political subdivision, and to levy and collect taxes to pay the interest on such bonds, and to provide a sinking fund for the redemption thereof, for the purpose of constructing, maintaining and operating macadamized, graveled or paved roads and turnpikes, and prescribing ways and means of conducting and supervising said work, and to repeal Chapter 72 of the Special Laws of the Thirty-first Legislature, a special road law for Lamar county, approved March 17, 1909, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

SIMPLE RESOLUTION.

By Senator Hudspeth:

Whereas, On the night of August the 14th the brave, chivalrous and Christian gentleman, Hon. W. F. Robinson, mayor of the city of El Paso, and also Fireman Todd Ware, heroically sacrificed his life to rescue the lives of his firemen imperiled in a burning building; and

Whereas, W. F. Robinson was the noblest work of God—an honest man, a leading Democrat in Western Texas, and a man who stood with rigid determination for the enforcement of the law, the raising of the moral standard in his city and the upbuilding of his great city; therefore, be it

Resolved, That the Senate of Texas mourns with the city of El Paso in this hour of great and irreparable loss, and that a copy of this resolution be sent to the family of this martyred citizen, and also the city council of El Paso.

The above resolution was read and unanimously adopted.

Morning call concluded.

SECOND HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to

inform the Senate that the House has passed the following bills:

House bill No. 34, A bill to be entitled "An Act making appropriation for the purpose of overhauling and repairing three boilers at the Deaf and Dumb Asylum, and to put them in safe working condition, providing the manner of expenditure of such appropriation, and declaring an emergency."

House bill No. 44, A bill to be entitled "An Act to amend Sections 6 and 7 of Chapter 69 of the Local and Special Laws of the Thirtieth Legislature, being entitled 'An Act to amend the special road law of Van Zandt county, Texas,' as enacted by the Twenty-eighth Legislature, and sent to the Governor for approval on the 18th of March, 1903, and to authorize and empower the commissioners court of said county to issue bonds for the permanent improvement of the public roads of said county, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after their captions had been read, the following House bills:

House bill No. 44, referred to Committee on Roads, Bridges and Ferries.

House bill No. 34, referred to Finance Committee.

(President Pro Tem. Alexander in the chair.)

HOUSE CONCURRENT RESOLUTION NO. 1.

The Chair laid before the Senate, as special order for this hour,

House Concurrent Resolution No. 1, Providing for the appointment of a committee to investigate certain charges made against the Regular and former Called Sessions of this Legislature.

The resolution was read and the Chair (Lieutenant Governor Davidson) called President Pro Tem. Alexander to the chair.

Senator Hume moved that the resolution be laid on the table subject to call.

Pending discussion, Senator Meachum made a point of order that the subject was not debatable.

The Chair (President Pro Tem. Alexander) sustained the point of order.

Senator Kellie moved the previous question on the pending motion, which motion was seconded.

Senator Meachum made the point of order that the motion to lay the resolution on the table subject to call would bring a direct vote on same.

The Chair (President Pro Tem. Alexander) sustained the point of order.

Action recurred on the motion to lay the resolution on the table subject to call, and the same was adopted by the following vote:

Yeas—18.

Adams.	Paulus.
Alexander.	Peeler.
Harper.	Perkins.
Hudspeth.	Real.
Hume.	Senter.
Kauffman.	Terrell of McLennan.
Kellie.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Nays—11.

Brachfield.	Ratliff.
Bryan.	Sturgeon.
Cofer.	Terrell of Bowie.
Greer.	Terrell of Wise.
Holsey.	Ward.
Mayfield.	

Absent.

Veale.

Senator Holsey moved that the Senate take up the House Concurrent Resolution No. 1.

Senator Meachum made a point of order on the motion that the Senate having voted on the motion to lay the resolution on the table, the same could not be taken up the same day.

The Chair sustained the point of order.

Senator Holsey then moved to suspend that rule, but same was overruled on a point of order.

(Lieutenant Governor Davidson in the chair.)

THIRD HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

House bill No. 31, A bill to be entitled

"An Act making appropriations for repairing, improving and constructing a sewerage system, and for general repairs at the North Texas Hospital for the Insane, and declaring an emergency," with engrossed rider.

House bill No. 37, A bill to be entitled "An Act to amend Article 359, Chapter 4, Title 10, of the Penal Code of the State of Texas, as amended by Chapter 132 of the Acts of the Thirtieth Legislature, defining what constitutes a disorderly house, so as to include any house located in any county, justice precinct or other subdivision of a county where the sale of intoxicating liquor has been legally prohibited in which such non-intoxicating malt liquors are sold or kept for the purpose of sale as to require the seller thereof to obtain United States revenue license as a retail malt liquor dealer, or any house where the owner, proprietor or lessee thereof has posted United States internal revenue license as a retail liquor dealer or as a retail malt liquor dealer."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

FOURTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

House bill No. 33, A bill to be entitled "An Act to require persons, firms, corporations and associations of persons engaged in compressing cotton in this State to so bind and tie all bales of cotton so that no bale of cotton by them compressed, recompressed, baled, or re-baled, shall be delivered to any railroad company or other common carrier unless the same is free from 'spiders,' exposed ends of bands, or any exposed or any obtruding part of the ties, bands, buckles or splices used in tying or baling such bale of cotton; and to provide penalties therefor; and prescribing the duties of the Commissioner of Labor, and providing means of reimbursing him and his deputies for expenditures in performing such duties, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after their captions had been read, the following House bills (see two previous House messages for captions):

House bill No. 31, referred to Finance Committee.

House bill No. 37, referred to Judiciary Committee No. 2.

House bill No. 33, referred to Judiciary Committee No. 1.

HOUSE BILL NO. 41.

On motion of Senator Cofer, the pending order of business (Senate bill No. 17) was suspended, and the Senate took up out of its order House bill No. 41, by the following vote:

Yeas—28.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Ratliff.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Terrell of Wise.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Kauffman. Veale.

On motion of Senator Cofer, the Senate rule requiring committee reports to lie over for one day was suspended, for the purpose of considering this bill (see Appendix for committee report), by the following vote:

Yeas—27.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Ratliff.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of Wise.
Hume.	Ward.
Kellie.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.
Murray.	

Absent.

Kauffman. Veale.
Terrell of McLennan.

On motion of Senator Cofer, the committee report, which provided that the bill be not printed, was adopted.

The Chair laid before the Senate, on second reading,

House bill No. 41, A bill to be entitled "An Act to amend Section 4, Article 5, of Chapter 33, Special Laws of the Thirtieth Legislature, entitled 'An Act granting to Denison, Grayson county, Texas, a new charter of incorporation, repealing all laws and parts of laws in conflict herewith, and declaring an emergency,' regulating the appointment and removal of officers and employes of said city, and declaring an emergency."

Bill read second time, and passed to a third reading.

On motion of Senator Cofer, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third and final passage by the following vote:

Yeas—26.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Ratliff.
Harper.	Real.
Holsey.	Senter.
Hudspeth.	Sturgeon.
Hume.	Terrell of Wise.
Kauffman.	Ward.
Kellie.	Watson.
Mayfield.	Willacy.

Absent.

Terrell of Bowie. Veale.
Terrell of McLennan. Weinert.

The bill was read third time, and passed by the following vote:

Yeas—28.

Adams.	Kellie.
Alexander.	Mayfield.
Brachfield.	Meachum.
Bryan.	Murray.
Cofer.	Paulus.
Greer.	Peeler.
Harper.	Perkins.
Holsey.	Ratliff.
Hudspeth.	Real.
Hume.	Senter.
Kauffman.	Sturgeon.

Terrell of Bowie.	Watson.
Terrell of Wise.	Weinert.
Ward.	Willacy.

Absent.

Terrell of McLennan. Veale.

Senator Cofer moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

SENATE BILL NO. 7.

On motion of Senator Sturgeon, the pending order of business (Senate bill No. 17) was suspended, and the Senate took up, out of its order, House bill No. 7 by the following vote:

Yeas—22.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Greer.	Perkins.
Holsey.	Real.
Hudspeth.	Senter.
Hume.	Sturgeon.
Kauffman.	Watson.
Kellie.	Weinert.
Mayfield.	Willacy.

Nays—6.

Cofer.	Terrell of Bowie.
Harper.	Terrell of Wise.
Ratliff.	Ward.

Absent.

Terrell of McLennan. Veale.

(Senator Hume in the chair.)

The Chair laid before the Senate, on second reading,

House bill No. 7, A bill to be entitled "An Act providing conditions upon which insurance companies writing contracts or policies of insurance against the hazard of fire may transact business in the State of Texas, and providing for the making, promulgation, regulation and control of schedules, rates and premiums, and form of policies; and to prevent discrimination therein, and to create a State Insurance Board, and prescribing the duties and authority of said board, and each member thereof; to appropriate money therefor, and to provide penalties for violations of this act, and repealing Chapter 18 of the General Laws of the State of Texas, passed by the First

Called Session of the Thirty-first Legislature, and all other laws and parts of laws in conflict therewith, and declaring an emergency."

(Lieutenant Governor Davidson in the chair.)

On motion of Senator Sturgeon, the committee report, which provided that the bill be printed in the Journal, was adopted.

The question being on engrossment of the bill,

Senator Hudspeth offered the following amendment:

Amend by striking out all after the enacting clause and insert the following:

"Be it enacted by the Legislature of the State of Texas:

"Section 1. Every fire, marine, or fire and marine insurance company issuing policies of insurance on property in this State, whether organized under the laws of this State or any other State, Territory or possession of the United States, or foreign countries, or by authority of the Federal government, now holding certificate of authority to transact business in this State, or hereafter granted authority to transact business in this State, shall be deemed to have accepted such certificate and to transact business thereunder, upon the condition that it consents to the terms and privileges of this act, and that it agrees to transact its business in this State subject thereto.

"Sec. 2. That there is hereby created a board to be known as the State Fire Rating Board, which shall be composed of the Commissioner of Insurance and Banking, who shall be chairman thereof, and two members to be appointed by the Governor. The members of said board, other than the Commissioner of Insurance and Banking, shall be appointed, as herein provided, within ten days after this act takes effect, for the term of one year, and biennially thereafter, and they each shall have had at least five years' practical experience in fire insurance business; they shall have the power to prescribe rates of insurance, to supervise and control rates of insurance, to decide all questions required, authorized or permitted to be passed upon by said board upon which they shall agree, and in case of disagreement as to any such question a decision of the Commissioner of Insurance and Banking shall determine the action of said board.

"Sec. 3. That the State Fire Rating Board is hereby authorized and empowered to call on any insurance company, or any officer, agent or representative thereof, authorized to transact business in this State under this act for any and all information relative to its business as often as deemed necessary by said board, and any company, officer agent or representative thereof failing to furnish such information when so called on shall be subject to the penalties provided for in Section — of this act.

"Sec. 4. That the members of the State Fire Rating Board, other than the Commissioner of Insurance and Banking, shall each receive as compensation for his service the sum of two thousand five hundred (\$2500) dollars per annum; the salaries of the members of said board and the compensation of the clerical force, and such other assistance as said board may deem proper to employ and all necessary traveling and other necessary expenses incurred by said board in carrying out the provisions of this act, shall be paid by warrants drawn by the Comptroller upon the State Treasurer, upon the order of said board; provided, that the total amount of all salaries and expenses shall not exceed the sum of twenty-five thousand dollars during any one year after this act takes effect.

"Sec. 5. That every fire, marine, or fire and marine insurance company authorized to transact business in this State shall use as the basis schedules, schedules and tariffs in effect in this State and in each locality thereof on December 31, 1909, as a maximum rate, and upon notice from the State Fire Rating Board immediately file such general basis schedules and rates and when so filed shall be the basis from which specific rates shall be made, but it is specifically provided that the State Fire Rating Board shall have the power to revise, alter and amend all rates or general basis schedules, and the rates and general basis schedules so amended shall be the basis from which the maximum rate at which the said risks shall be written, until the same shall be changed by said board or by some judicial proceeding; and provided that the rates in effect December 31, 1909, on insurance in this State shall be the maximum rate at which insurance risks of like kind and character similarly situated shall be written until said board shall have approved the maximum rate as hereinbefore provided; and it shall be unlawful

for any company authorized to transact business in this State to charge a higher rate, but it is specially provided that any insurance company may write any risk at a lower rate than the maximum rates promulgated by said board for such risks.

"Sec. 6. That no change shall be made by any company increasing the premium rates in the general basis schedules, or rates which have been filed in compliance with the requirements of this act, and the said rates of the respective companies shall not be increased by penalizing the risks or otherwise, except after thirty days' notice to the secretary of said board, which notice shall plainly state the changes proposed to be made in the schedules thereunder in force and upon the respective property or risk, and the time when such changes will go into effect; provided, that same shall not go into effect until approved by said board; and such changes shall be shown by filing new schedules in force at the time; provided, that said board may, in its discretion, and for good cause shown, allow or direct changes to be made upon notice for a shorter period than that specified herein to meet the peculiarities and demands of local conditions; provided, also, that said board may order changes in the rates of premium to meet unusual or peculiar conditions in any particular locality by giving notice of its intention to do so as herein provided.

"Provided, that said board shall have the power, upon reasonable notice of its intention to do so, to direct any or all such insurance companies, or on its own motion, to alter, amend or revise, the general basis schedules, or the specific schedules of rates filed by any company and to publish notice of such alteration, amendment, or revision; provided, that nothing herein shall be considered to deny the right of any company to reduce its rates to conform with any lower rate established or authorized by said board applying to the same character of risks under similar circumstances and conditions.

"Sec. 7. That every insurance company authorized to transact business in this State shall, before placing the policy to be used by its agents to submit same to the Fire Rating Board, shall have the power to prohibit the use of any policy, provisions, forms, clauses, endorsements or amendments, and it shall be its duty to prescribe and ap-

prove all forms of fire insurance policies, which approval shall be printed in bold type on each and every used or placed policy by any and all companies doing a fire insurance business in Texas.

"Sec. 8. That the provisions of this law shall not deal with the collections of premiums, but each company shall be permitted to make such rules and regulations as it may deem just between the company and its agents, and no policy shall be declared void or in any way affected by any endorsement not authorized by said board.

"That the policies heretofore written containing clauses making said policies void for non-payment of premiums are hereby validated and held to be in full force and effect until the expiration or cancellation of the same.

"And it is further provided that all contracts of insurance written prior to January 1, 1910, shall not be affected by any law passed by General or Special Session of the Thirty-first Legislature, nor shall any provision of this law affect such contract, but it shall remain in full force and effect according to its stipulations as originally entered into, and that no endorsement or permit entered into or attached to or passed upon said policy at any time, shall in any way affect its validity.

"Sec. 9. That the Commissioner of Insurance and Banking, if he shall find that any insurance company, or any officer, agent or representative thereof, has violated any of the provisions of this act, or failed to comply with any orders of said board, may, at his discretion, and with the consent and approval of the Attorney General, revoke the certificate of authority of such company, officer, agent, or representative, to the infliction of any other penalty provided by this act, and provided that any action, decision, or determination of the Commissioner of Insurance and Banking, in such case, shall be subject to the review of the courts of this State, as herein provided.

"Sec. 10. That the State Fire Rating Board shall not make any regulations or orders without giving all the insurance companies concerned reasonable notice thereof, and an opportunity to appear to be heard with respect to same, and if any insurance company or other person, or commercial body or city, or municipality, which shall be interested in any such order, shall be dissatisfied with any regulation, or rate adopted by said board, such insurance

company, person, commercial body, city or municipality, or their representatives, shall have the right within thirty days after the making of such rates, regulation or order to bring an action against said board in the district court of Travis county, Texas, to have such rate, regulation or order vacated or modified, and shall set forth in the petition therein the particular ground or grounds of objection to any or all of such rates, regulations or orders. In any such suit the issue shall be formed and the controversy tried and determined as in other civil cases; and the court may modify, change, set aside, vacate or annul one or more or any part of any of the regulations, orders or rates adopted or fixed by said board which shall be found by the court to be unreasonable, unjust, excessive, or inadequate, to compensate the company writing insurance thereon for the risks assumed by it, without disturbing others. No injunction, interlocutory order or decree suspending or restraining directly, or indirectly, the enforcement of any order of said board, shall be granted, provided that the court may permit any company complaining of any order or regulation made by said board to write insurance at any rate, which obtained prior to the making of such order or regulation complained of upon condition that the difference between the rate affected by the order complained of, and the rate at which it is permitted to write insurance, shall be deposited with the Commissioner of Insurance and Banking, and upon the final determination of the suit shall be paid by him to the insurance company, if the court shall find it entitled to the same, or to the holders of policies written by said company after the rates so complained of is ordered as the court may deem just and equitable.

"Either party to any such action, if dissatisfied with the judgment of said court, may appeal therefrom as in other civil cases. No action shall be brought in any court of the United States to set aside any order made by said board under the provision of this act until all the remedies provided for herein shall have been exhausted by the party complaining.

"If any fire, marine, or fire and marine insurance company authorized to transact business in this State shall violate any of the provisions of this section, the Commissioner of Insurance and Banking shall by and with the consent

of the Attorney General cancel its certificate of authority to transact business in this State.

"Sec. 11. That no person shall be excused from giving testimony or producing evidence when legally called upon to do so at the trial of any other person charged with violating any of the provisions of this act on the ground that it may incriminate him under the laws of this State, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence under the authority of this act, except for perjury in so testifying.

"Sec 12. That not later than after this act shall take effect, and annually thereafter, it shall be the duty of the Commissioner of Insurance and Banking, for the purpose of reimbursing the State for the amounts so expended during the current year in carrying out the provisions of this act, to collect from each fire, marine, and fire and marine insurance company, which transacted business in this State during the preceding calendar year or any portion thereof, the portion of said sum of twenty thousand dollars which the gross premium collected by such company during such year from persons or upon property in this State by all said insurance companies transacting business in this State. Provided, that in computing such gross premium receipts there shall be deducted therefrom the amount paid out for reinsurance and for the return premiums on canceled risks. If at the end of any year after this act shall take effect it shall be found that the aggregate amount expended in carrying out the provisions of this act during such year has been less than twenty-five thousand dollars, the amount remaining unexpended shall be applied in the reduction of the amount to be collected from said companies for the succeeding year.

"The amount due under the provisions of this section by each company shall be certified by the Commissioner of Insurance and Banking, and he shall revoke the certificate of authority of any company which shall fail to pay the same within thirty days after the receipt of such certificate. Provided, that the collections from said insurance companies provided for in this section shall not be made for any year during which any such company shall be liable under the laws of this State to the

payment of an occupation tax at a rate of not less than 2½ per cent of the gross premium received, less deduction for reinsurance and return premiums on canceled risks.

"Sec. 13. That this act shall not apply to mutual fire insurance companies incorporated under the laws of this State nor to purely co-operative, inter-insurance and reciprocal exchanges carried on by the members thereof solely for the protection of their own property and not for profit.

"Provided, that no person, persons, firm or association of persons shall be permitted to solicit, write or transact a fire insurance business in any city, town or county, except those places that are situated in the county in which it maintains its home office, and in which the said person or persons or firm is organized, except where said person or persons, firm or corporation of persons shall file with the Department of Insurance a bond with two or more good and sufficient sureties in the sum of \$10,000, made payable to the Governor of this State and for the benefit of the persons holding policies issued by them. But it is specially provided that no bond or security shall be required from such person, persons, firm or association that confines its business to one county.

"And it is further provided that any person, firm or association of persons guilty of violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than \$100 nor more than \$1000.

"Sec. 14. That whenever the said board shall reduce any rate and such rate so reduced shall affect the unearned premium on pre-existing contracts of insurance, which shall be written after this act takes effect, such unearned premiums shall be entitled to such reduction and any company having outstanding such pre-existing contracts shall reduce the unearned portion of the premium in such contracts on a pro rata basis for the time that shall elapse between the date such reduction takes effect and the date of expiration of such pre-existing policy contracts.

"Sec. 15. And it is provided further that if any fire, marine, or fire and marine insurance company authorized to transact business under this act, or any ruling of the Fire Insurance Rating Board under this act, shall write any insurance under any schedule or schedules except that provided for in this

act, in this State or in any locality thereof, such insurance company shall forfeit its certificate of authority to transact business in this State, and the Commissioner of Insurance shall at once so declare. And it is further provided that, should any insurance company authorized to transact a fire insurance business in this State, cease to do business in this State, or cancel its policy of insurance and remove from this State on account of any law enacted by the Legislature of this State, then this shall work a forfeiture of the right of said insurance company to again re-enter this State, and the Commissioner of Insurance shall not issue a certificate of authority to said company or companies to again transact a business of fire insurance in this State."

Pending the reading of the above amendment, Senator Harper moved that the further reading of the amendment be dispensed with, and

Senator Meachum moved to table the motion.

The motion to table prevailed by the following vote:

Yeas—15.

Adams.	Peeler.
Hudspeth.	Real.
Hume.	Senter.
Kauffman.	Terrell of McLennan.
Kellie.	Watson.
Meachum.	Weinert.
Murray.	Willacy.
Paulus.	

Nays—14.

Alexander.	Mayfield.
Brachfield.	Perkins.
Bryan.	Ratliff.
Cofer.	Sturgeon.
Greer.	Terrell of Bowie.
Harper.	Terrell of Wise.
Holsey.	Ward.

Absent.

Veale.

(Senator Mayfield in the chair.)

FIFTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

House bill No. 35, A bill to be entitled

"An Act to require the erection and maintenance of buildings for the protection from rain, wind, and inclement weather of employes engaged in repairing railroad cars and other railroad equipment, and providing penalties for violations, and regulating suits for such penalties, and repealing the act of the Thirty-first (31st) Legislature of the State of Texas, entitled 'An Act to require all railroad companies doing business in this State to provide suitable premises and shelter for the protection from the weather of their employes while engaged in labor in the service of such railroad company,' approved 17th day of March, 1909."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILL READ AND REFERRED.

The Chair (Senator Mayfield) had referred, after its caption had been read, the following House bill:

House bill No. 35, referred to Committee on Internal Improvements.

HOUSE BILL NO. 7.

Action recurred on House bill No. 7.

RECESS.

At the conclusion of the reading of the amendment to House bill No. 7, Senator Hudspeth moved that the Senate recess until 2 o'clock today.

The motion prevailed by the following vote, the yeas and nays being called for:

Yeas—16.

Adams.	Paulus.
Harper.	Peeler.
Hudspeth.	Real.
Hume.	Senter.
Kauffman.	Terrell of McLennan.
Kellie.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Nays—11.

Alexander.	Perkins.
Brachfield.	Sturgeon.
Bryan.	Terrell of Bowie.
Cofer.	Terrell of Wise.
Holsey.	Ward.
Mayfield.	

Absent.

Greer.
Ratliff.

Veale.

AFTER RECESS.

The Senate was called to order by President Pro Tem. Alexander, and, on motion of Senator Perkins, a recess of fifteen minutes was taken.

At 2:30 o'clock the Senate was again called to order by President Pro Tem. Alexander.

SIXTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

House bill No. 38, A bill to be entitled "An Act denouncing as a nuisance any place, room or building in any county, justice precinct, town, city or subdivision of a county as may be designated by the commissioners court of said county in which the sale of intoxicating liquors have been prohibited under the laws of this State, kept or used for the purpose of selling intoxicating liquor in violation of law; also denouncing as a nuisance any intoxicating liquor kept, possessed or used for such purpose, and the tools, appliances and furniture used therewith, prescribing a suitable procedure for the search and seizure of any such liquor, tools appliances and furniture, for the trial of the issue presented, the judgment to be rendered therein: also to prevent by means of the writ of injunction at the suit of the State or any citizen thereof, the use or the contemplated use, or threatened use, of any such place, room or building, or the keeping of any such intoxicating liquor and the tools, appliances and furniture used therewith, for any such illegal purpose, and declaring an emergency."

Respectfully,

BOB BARKER.

Chief Clerk, House of Representatives.

BILL READ AND REFERRED.

The Chair (President Pro Tem. Alexander) had referred, after its caption had been read, the following House bill:

House bill No. 38, referred to Judiciary Committee No. 1.

On motion of Senator Peeler, the Senate was at ease until 3 o'clock.

At 3 o'clock the Senate was called to order by Lieutenant Governor Davidson.

RECESS.

Senator Watson moved that the Senate recess for thirty minutes.

The motion was adopted by the following vote:

Yeas—16.

Adams.	Meachum.
Alexander.	Murray.
Bryan.	Peeler.
Harper.	Perkins.
Hudspeth.	Real.
Hume.	Ward.
Kauffman.	Watson.
Kellie.	Weinert.

Nays—8.

Cofer.	Ratliff.
Greer.	Sturgeon.
Holsey.	Terrell of Bowie.
Mayfield.	Terrell of Wise.

Absent.

Brachfield.	Terrell of McLennan.
Paulus.	Veale.
Senter.	Willacy.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

MEMORIAL SERVICES POSTPONED.

On motion of Senator Harper, the hour for memorial services in memory of the late Senator Stokes was postponed until Tuesday evening at 8 o'clock p. m.

HOUSE BILL, NO. 7.

Action recurred on House bill No. 7, the question being on the amendment by Senator Hudspeth.

The amendment was adopted.

Senator Hudspeth moved that the bill be considered section by section.

Senator Sturgeon moved, as a substitute, that the bill be considered as a whole.

The substitute motion was lost, and the original motion prevailed.
(Senator Hume in the chair.)

SEVENTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

Senate bill No. 20, A bill to be entitled "An Act making an appropriation for a deficiency in support of the State government for the fiscal year ending August 31, 1910, being to pay for the services of a clerk employed by the Tax Commissioner of the State of Texas, and declaring an emergency." with amendments.

Respectfully,

BOB BARKER,

(Chief Clerk, House of Representatives.)

HOUSE BILL NO. 7.

Action recurred on House bill No. 7. Section 1 being read.

No amendments.

There being no amendments to Section 1, Section 2 was read, and there was no amendments.

Section 2 was adopted on motion of Senator Hudspeth.

Section 3.

Senator Hudspeth offered the following amendment, which was read and adopted:

Amend the bill, line 30, page 2, by adding after the word "Section" the word "15."

Section 4.

Senator Senter offered the following amendment:

Amend the bill, Section 4, page 3, lines 1 and 2, by substituting the words and figures "three thousand dollars" for the words "two thousand five hundred dollars."

The amendment was read, and Senator Holsey moved to table the amendment, which motion prevailed by the following vote:

Yeas—15.

Alexander.
Brachfield.
Bryan.
Cofer.

Greer.
Harper.
Holsey.
Mayfield.

Perkins.
Ratliff.
Sturgeon.
Terrell of Bowie.

Terrell of McLennan.
Terrell of Wise.
Ward.

Nays—12.

Adams.
Hudspeth.
Hume.
Kauffman.
Kellie.
Meachum.

Murray.
Paulus.
Peeler.
Senter.
Watson.
Weinert.

Absent.

Real.
Veale.

Willacy.

Senator Terrell of Bowie offered the following amendment, which was read and adopted:

Amend Section 4 by adding thereto the following: "Provided the Commissioner of Insurance and Banking shall be paid the sum of five hundred dollars as compensation for his services in connection with said Fire Rating Board."

Senator Brachfield offered the following amendment, which was read and adopted:

Amend the bill by adding to Section 4 the following: "And the sum of \$25,000 is hereby appropriated out of the general fund not otherwise appropriated, for the payment of the warrants drawn under this act."

Section 5.

Senator Harper offered the following amendment, which was read and adopted:

Amend the bill, Section 5, page 3, line 27, by inserting after the word "provided" the following: "On any property on which there was no prevailing rate on December 31, 1909, the same rates shall be applied to such property as is in force on similar property in the same community, or to the rate on risks similarly conditioned in other communities of this State."

**HARPER,
SENER.**

Senator Hudspeth offered the following amendment:

Amend the bill by adding after the word "risks" at the end of Section 5, line 31, page 3, the following: "And, provided further, that any precinct, town or city in this State that shall show a net income to insurance companies of 25 per cent above premium loss in each year for three years prior to the taking effect of this act; that said Board shall

never raise or permit the raising of the rates, in said precinct, town or city above the maximum rate or local tariff in effect on December 31, 1909."

The amendment was lost by the following vote:

Yeas—13.

Adams.	Paulus.
Harper.	Peeler.
Hudspeth.	Real.
Hume.	Terrell of Bowie.
Kellie.	Ward.
Meachum.	Watson.
Murray.	

Nays—14.

Alexander.	Mayfield.
Brachfield.	Perkins.
Bryan.	Ratliff.
Cofer.	Senter.
Greer.	Sturgeon.
Holsey.	Terrell of McLennan.
Kauffman.	Terrell of Wise.

Absent.

Veale.	Willacy.
Weinert.	

Senator Alexander offered the following amendment, which was read and adopted:

Amend Section 5, line 13, page 3, by inserting after the word "effect" the words "or prevailing rates in effect."

Section 6—No amendments.

Section 7.

Senator Bryan offered the following amendment to Section 7:

Amend the bill by adding at end of Section 7 the following: "Provided, no policy shall be written requiring the insured to carry part of the insurance."

Pending.

Senator Sturgeon moved the previous question on the amendment. The motion was duly seconded.

The Senate refused to order same by the following vote:

Yeas—7.

Cofer.	Sturgeon.
Greer.	Terrell of Wise.
Harper.	Ward.
Ratliff.	

Nays—21.

Adams.	Kauffman.
Alexander.	Kellie.
Brachfield.	Mayfield.
Bryan.	Meachum.
Holsey.	Murray.
Hudspeth.	Paulus.
Hume.	Peeler.

Perkins.	Terrell of McLennan.
Real.	Watson.
Senter.	Weinert.
Terrell of Bowie.	

Absent.

Veale.	Willacy.
--------	----------

Senator Hudspeth offered the following substitute for Senator Bryan's amendment:

Amend the bill by adding at the end of Section 7 the following: "Provided, that no insurance company shall ever be permitted to charge any insurer in this State a higher rate on a part of insurance taken out by said insurer than the said insurance company would charge should the insurer take out the insurance on the full amount of said policy."

Pending.

BILLS SIGNED.

The Chair (Lieutenant Governor Davidson) gave notice of signing and did sign, in the presence of the Senate, after their captions had been read, the following bills:

Senate bill No. 7, "An Act to provide for the retirement of certain bonds of the State of Texas, maturing on the first day of July, 1909, and the first day of September, 1910; for issuing other bonds at a lower rate of interest in lieu thereof; providing for the execution of such other bonds, and the manner of exchange of the new bonds, and declaring an emergency."

Senate bill No. 11, "An Act to amend Chapter 16 of the Acts of the Regular Session of the Thirty-first Legislature of the State of Texas, approved February 20, 1909, entitled 'An Act authorizing any county in the State of Texas having a population in excess of fifty thousand inhabitants by the last preceding United States Census, to submit to the qualified voters the propriety of a bond issue for the construction and maintenance of causeways, viaducts, bridges and approaches across any rivers within the limits of such county, and to provide for the construction, maintenance and use of such causeways, viaducts, bridges and approaches, and declaring an emergency,' by adding thereto Sections 9a and 9b, providing a method by which counties may acquire land upon which to construct and maintain said causeways, viaducts, bridges and approaches, by condemnation, and by grant from cities and counties of the

right to use streets, alleys, public highways and public grounds, and to authorize counties to construct said causeways, viaducts, bridges and approaches across the lines of railway, telegraph and telephone corporations, and the method thereof, and declaring an emergency."

House bill No. 41, "An Act to amend Section 4, Article 5, of Chapter 33, Special Laws of the Thirtieth Legislature, entitled 'An Act granting to Denison, Grayson county, Texas, a new charter of incorporation, repealing all laws and parts of laws in conflict herewith, and declaring an emergency,' regulating the appointment and removal of officers and employes of said city, and declaring an emergency."

ADJOURNMENT.

Senator Meachum moved that the Senate adjourn until 10 o'clock tomorrow morning.

Senator Terrell of Bowie moved, as a substitute, that the Senate recess until 8 o'clock tonight.

Action recurred on the longest time first, and the motion to adjourn until 10 o'clock tomorrow morning prevailed by the following vote:

Yeas—15.

Adams.	Peeler.
Hudspeth.	Real.
Hume.	Senter.
Kauffman.	Terrell of McLennan.
Kellie.	Watson.
Meachum.	Weinert.
Murray.	Willacy.
Paulus.	

Nays—14.

Alexander.	Mayfield.
Brachfield.	Perkins.
Bryan.	Ratliff.
Cofer.	Sturgeon.
Greer.	Terrell of Bowie.
Harper.	Terrell of Wise.
Holsey.	Ward.

Absent.

Veale.

APPENDIX.

PETITIONS AND MEMORIALS.

By Senator Terrell of Wise:

Resolution adopted by the Wise County Baptist Association, in session at

Boyd, Texas, August 12, 1910, and ordered sent to our Representative, Senator and the Governor of Texas.

In view of the apparently unavoidable delay in legislation looking to State-wide prohibition, be it

Resolved by the Wise County Baptist Association, now in session, that we hereby endorse the recent recommendations of Governor Campbell to the Legislature with reference to the liquor in Texas.

Resolved further, that a copy of these resolutions be furnished to the Representative and Senator from Wise county.

H. F. HAWKINS, Moderator.

J. W. BAILEY, Clerk.

By Senator Terrell of Wise:

Ringgold, Texas, August —, 1910.

To the Honorable Senate and House of Representatives, Austin, Texas.

Gentlemen: Believing that the State should maintain control of fire insurance rates and that the existing statute, known as the Fire Rating Board law, is based upon principles of equity and justice and will eventually work the greatest good to the greatest number, we, the undersigned citizens and insurers of Montague county, respectfully petition your honorable body not to repeal the existing law, but to perfect the same by such amendments as may be necessary. We favor the amendment of the law to the end that no schedules or rates filed by the insurance companies shall become effective until approved by the Fire Rating Board, and that the Board shall have authority over all forms and clauses used by the companies in writing fire insurance in Texas.

Numerously signed.

COMMITTEE REPORTS.

(Floor Report.)

Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Finance Committee, to whom was referred

House bill No. 34, A bill to be entitled "An Act making an appropriation for the purpose of overhauling and repairing three boilers at the Deaf and Dumb Asylum, and to put them in safe working condition, providing the manner of the expenditure of such appropriation, and declaring an emergency,"

Have had the same under consideration and desire to report the same back to the Senate with the recommendation that it do pass, and be not printed.

WILLACY, Chairman.

(Floor Report.)

Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Finance Committee, to whom was referred

House bill No. 31, A bill to be entitled "An Act making appropriations for repairing, improving and constructing a sewerage system, and for general repairs at the North Texas Hospital for the Insane, and creating an emergency,"

Have had the same under consideration, and desire to report it back to the Senate with the recommendation that it do pass, and be not printed.

WILLACY, Chairman.

(Floor Report.)

Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

House bill No. 41, A bill to be entitled "An Act to amend Section 4, Article 5, of Chapter 33, Special Laws of the Thirtieth Legislature, entitled 'An Act granting to Denison, Grayson county, Texas, a new charter of incorporation, repealing all laws and parts of laws in conflict herewith, and declaring an emergency,' regulating the appointment and removal of officers and employes of said city, and declaring an emergency,"

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass, and be not printed.

SETER, Chairman.

(Floor Report.)

Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

House bill No. 44, A bill to be entitled "An Act to amend Sections 6 and 7, of

Chapter 69, of the Local and Special Laws of the Thirtieth Legislature, being entitled 'An Act to amend the Special Road Law of Van Zandt county, Texas,' as enacted by the Twenty-eighth Legislature, and sent to the Governor for approval on the 18th day of March, 1903, and to authorize and empower the commissioners court of said county to issue bonds for the permanent improvement of the public roads of said county, and declaring an emergency,"

Have had same under consideration, and beg to report it back to the Senate with the recommendation that it do pass, and be not printed.

GREER, Chairman.

Committee Room,

Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred House bill No. 37, have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass and be not printed, but be printed in the Journal.

HARPER, Chairman.

Following is the bill in full:

H. B. No. 37. By Looney and Vaughan.

A BILL

To Be Entitled

An Act to amend Article 359, Chapter 4, Title 10 of the Penal Code of the State of Texas, as amended by Chapter 132 of the Acts of the Thirtieth Legislature, defining what constitutes a disorderly house so as to include any house located in any county, justice precinct or other subdivision of a county where the sale of intoxicating liquor has been legally prohibited in which such non-intoxicating malt liquors are sold or kept for the purpose of sale as require the seller thereof to obtain United States revenue license as a retail malt liquor dealer, or any house where the owner, proprietor or lessee thereof has posted United States internal revenue license as a retail liquor dealer or as retail malt liquor dealer.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 359, Chapter 4, Title 10 of the Penal Code of the State of Texas, as amended by Chapter 132, Acts of the Thirtieth Legislature,

be and the same is hereby amended so as to hereafter read as follows:

"Article 359. A bawdy house is one kept for prostitution or where prostitutes are permitted to resort or reside for the purpose of plying their vocation. A disorderly house is any assignation house or any theater, playhouse or house where spirituous, vinous or malt liquors are kept for sale, and prostitutes, lewd women or women of bad reputation for chastity are employed, kept in service or permitted to display or conduct themselves in a lewd, lascivious or indecent manner, or to which persons resort for the purpose of smoking or in any manner using opium, or any house in which spirituous, vinous or malt liquors are sold or kept for sale without first having obtained a license under the laws of this State to retail such liquors; or any house located in any county, justice precinct or other subdivision of a county where the sale of intoxicating liquor has been prohibited under the laws of this State, in which such non-intoxicating malt liquor is sold or kept for the purpose of sale as requires the seller thereof to obtain internal revenue license under the laws of the United States as a retail malt liquor dealer, or any house located in any county, justice precinct or other subdivision of a county in which the sale of intoxicating liquor has been legally prohibited, where the owner, proprietor or lessee thereof has posted license issued by the United States of America, authorizing such owner, proprietor or lessee thereof to pursue the occupation and business of a retail liquor dealer or a retail malt liquor dealer. An assignation house is a house, room or place where men and women meet by mutual appointment, or by appointment made by another for the purpose of sexual intercourse, whether at such place vinous, spirituous or malt liquors are kept for sale or are used or not."

Sec. 2. The fact that there is no adequate remedy to suppress disorderly houses where non-intoxicating malt liquor is sold in local option territory creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled

Bills have carefully examined and compared Senate bill No. 7, and find it correctly enrolled, and have this day, at 11:56 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the bill in full:

An Act to provide for the retirement of certain bonds of the State of Texas maturing on the first day of July, 1909, and the first day of September, 1910; providing for the issuance and sale of other State bonds at the lower rate of interest for the purpose of retiring and redeeming said outstanding bonds; providing for the execution and sale of such other bonds; repealing Chapter 20, General Laws of the Second Called Session of the Thirty-first Legislature; making an appropriation to carry this act into effect, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the Governor of the State is hereby authorized to have lithographed one hundred and thirty-five coupon bonds of the State of Texas of the denomination of ten thousand dollars (\$10,000) each, and one coupon bond of the State of Texas of the denomination of three thousand seven hundred (\$3700) dollars, aggregating one million three hundred fifty-three thousand seven hundred (\$1,353,700) dollars. Said bonds shall be designated "State of Texas Refunding Bonds issue of 1910." They shall be numbered from one (1) to one hundred thirty-six (136), inclusive; they shall be dated September 1, 1910, and shall become due and payable forty (40) years from that date, but the State shall reserve an option of redeeming them at any time after twenty (20) years from that date. They shall bear interest at the rate of three (3) per cent per annum, payable semi-annually on the first day of January and July each year, evidenced by coupons attached. The form of such bonds and coupons shall be prepared by the Attorney General. The bonds shall be signed by the Governor and the Treasurer of the State of Texas, and countersigned and registered by the Comptroller, and shall have the seal of Texas affixed thereto. The facsimile signatures of the Governor and the Treasurer shall be lithographed on the coupons. The principal and interest of said bonds shall be payable upon presentation of bonds or proper coupons in lawful money of the United States at the office

of Treasurer of the State of Texas at Austin, Texas.

Sec. 2. The bonds herein provided for are authorized for the purpose of redeeming and cancelling State bonds outstanding to the amount of one million three hundred fifty-three thousand seven hundred (\$1,353,700) dollars, of which seven hundred ninety-nine thousand three hundred (\$799,300) dollars is held by the State Permanent School Fund; two hundred seventeen thousand two hundred (\$217,200) dollars by the Permanent State University Fund; twenty-four thousand three hundred (\$24,300) dollars by the Permanent Orphan Home Fund; twenty-nine thousand five hundred (\$29,500) dollars by the Permanent Blind Asylum Fund; forty-six thousand six hundred (\$46,600) dollars by the Permanent Deaf and Dumb Asylum Fund; sixty-two thousand eight hundred (\$62,800) dollars by the Permanent Lunatic Asylum Fund; and one hundred seventy-four thousand (\$174,000) dollars by the Permanent Agricultural and Mechanical College Fund, which bonds mature on the first day of July, 1909, and the first day of September, 1910, and were issued under an act of the Legislature of the State of Texas, approved August 5, 1870, entitled "An Act providing for the issuance and sale of the bonds of the State of Texas for the purpose of meeting the appropriations made for maintaining the ranging companies on the frontiers," and an act of the Legislature of the State of Texas approved April 21, 1879, entitled "An Act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the State and supplying a deficiency in the revenue and to provide the mode and manner of sale of said bonds."

Sec. 3. The Governor and State Treasurer shall sell the bonds herein provided for and with the proceeds thereof shall redeem the outstanding bonds of the State referred to in Section 2 of this act; provided, that said bonds shall not be sold for less than par and accrued interest; and, provided further, that the State Board of Education shall have an option of ten days in which to purchase said bonds; provided, that the Board of Education will pay the price offered for such bonds by the best bona fide bidder.

Sec. 4. There shall be appropriated and set aside in the State Treasury at each biennial session of the Legislature an amount equal to two (2) per cent per annum of the bonds herein provided for for the purpose of creating a sink-

ing fund with which said bonds shall be redeemed.

Sec. 5. Chapter 20 of the General Laws of the Second Called Session of the Thirty-first Legislature is hereby repealed.

Sec. 6. The sum of one hundred (\$100) dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated to pay the expense of lithographing the bonds provided for in this act, and any other expenses necessary in carrying out the provisions thereof.

Sec. 7. The large number of bills now before the Legislature for its consideration creates an emergency and imperative public necessity exists that the rule requiring bills to be read on three several days be suspended and this act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred House bill No. 19, have had the same under consideration and beg leave to report it back to the Senate with the recommendation that it do pass with the following amendments:

(1) Amend the caption by striking out the words "Article 41lppp and 41lqqq, Title 11, Chapter 64, Penal Code of the State of Texas," and insert in lieu thereof the following: "Chapter 160 of the General Laws of the State of Texas passed by the Twenty-ninth Legislature, pages 379, 380 and 381" of the session acts.

(2) Amend line 1, Section 1 of the bill by striking out the words, "Article 41lppp and 41lqqq, Title 11, Chapter 6e, Penal Code of the State of Texas," and insert in lieu thereof the following words: "Chapter 160 of the General Laws of the State of Texas passed by the Twenty-ninth Legislature."

(3) Amend the bill, line 5, Section 1, by striking out the words "41lppp" and insert in lieu thereof the words "Section 1."

(4) Amend the bill, page 1, on next to the last line of said page, between the words "been" and "prohibited" by inserting the following words, "or may hereafter be."

(5) Amend the bill on page 2, line 10, between the words "been" and "pro-

hibited" by inserting the following words, "or may hereafter be."

(6) Amend the bill on page 2, line 28, by striking out the words, "Article 411qqq" and inserting in lieu thereof the words, "Section 2."

(7) Amend the bill on the last line of page 2, between the words "been" and "prohibited" by inserting the following words, "or may hereafter be."

(8) Amend the bill at the end of Section 2 by inserting the following section:

"Section 3. This act shall not repeal any of the laws prohibiting the sale of intoxicating liquors in any county, justice precinct, school district, city or town, or subdivision of a county, nor shall it be construed to legalize any sale of intoxicating liquors that would not have been legal had this act not been passed."

(9) Amend the bill, page 2, line 20, by inserting the words, "by any officer of the law" after the word "inspection."

(10) Amend the bill, page 3, line 13, by striking out the words, "the public," and inserting in lieu thereof the following words, "by any officer of the law."

And change other numbered sections in accordance therewith. We further recommend that the bill be not printed, but be printed in the Journal.

HARPER, Chairman.

Following is the bill in full:

H. B. No. 19. By Brownlee and Tarver.

A BILL

To Be Entitled

An Act to amend Article 411ppp and 411qqq, Title 11, Chapter 6c, Penal Code of the State of Texas, passed by the Regular Session of the Twenty-ninth Legislature of Texas and approved April 18, 1905, prescribing certain restrictions to be placed upon the shipment and transportation of intoxicating liquors into any county, justice precinct, school district, city or town, or subdivision of a county within this State, where the sale of intoxicating liquors has been prohibited under the laws of this State, providing that where any such intoxicating liquor is not called for and taken away and the charges thereon, if any, paid by the consignee, it shall be started in transit back to the consignor within seven days from the time of its arrival at its destination; prescribing that a book, to be open for public inspection, shall be kept in which shall be entered the transactions pertaining to the re-

ceipt, shipment and transportation and delivery of such intoxicating liquors; and fixing penalties for the violations of this act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Articles 411ppp and 411qqq, Title 11, Chapter 6c, Penal Code of the State of Texas, passed by the Regular Session of the Twenty-ninth Legislature of Texas, and approved April 18, 1905, shall hereafter read as follows:

"Article 411ppp. Each and every person in this State, who shall place or have placed any package or parcel, of whatever nature, containing any intoxicating liquor, with any express company, railroad company, or other common carrier, for shipment or transportation to any point in any county, justice precinct, school district, city or town, or subdivision of a county within this State, where the sale of intoxicating liquors has been prohibited under the laws of this State, shall first place in a conspicuous place, in plain letters, on such package or parcel the words, "intoxicating liquor," the character and quantity of such intoxicating liquor, the place from where shipped, the place of destination and the names of the consignor and the consignee; and no express company, railroad company, or other common carrier, or any agent thereof, in this State, shall accept or receive from any person, firm or corporation for shipment or transportation, to any such point where the sale of intoxicating liquors has been prohibited, under the laws of this State, any such package or parcel, unless the same shall have been labeled in the manner and form as hereinbefore, in this section, required, and no express company, railroad company, or other common carrier, or any agent thereof, in this State, shall deliver such package or parcel to any other than the consignee in person. Any agent of such express company, railroad company, or other common carrier having the custody of any book or books required by this act of such express company, railroad company, or other common carrier, to be kept, shall at the request of any person, at any reasonable time or during office hours produce such book or books for inspection. Any agent of any express company, railroad company or other common carrier, or any other person who shall violate any of the provisions of this section of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be

fined in any sum not less than \$25 nor more than \$100, and shall be punished by imprisonment in the county jail for any term not less than twenty nor more than sixty days.

"Article 411qq. When any express company, railroad company or other common carrier within this State shall receive any package or parcel of whatsoever nature, whether from a point within or without this State, containing any intoxicating liquor, for transportation to any point within any county, justice precinct, school district, city or town, or subdivision of a county where the sale of intoxicating liquors has been prohibited under the laws of this State, such express company, railroad company or other common carrier shall forthwith transport such intoxicating liquor to the place of its destination, and upon the arrival of same at its place of destination there shall be entered in a book to be kept for that purpose the names of the consignor and the consignee, the exact time of the arrival of such package or parcel at the place of its destination, the place from where shipped, the quantity and character of such intoxicating liquor, as shown on such package or parcel, the exact time delivered to the consignee, if delivered, and the signature of such consignee, who shall sign in person for same before delivery thereof, and such book shall be open at all reasonable hours for the inspection of the public. If such package or parcel be not called for and taken away by the consignee and all charges thereon, if any, paid by such consignee, it shall be the duty of such express company, railroad company or other common carrier to start such package or parcel in transit back to the consignor thereof within seven days from the time of its arrival at the place of its destination, and the consignor shall be liable to such express company, railroad company or other common carrier for the express or freight charges in transportation and returning same. Any express company, railroad company or other common carrier violating any of the provisions of this chapter shall be liable to a penalty of \$100 for each infraction thereof, to be recovered in the name of the State of Texas in any court of competent jurisdiction in any county where such express company, railroad company, or other common carriers have an office or an agent or a line of railway; and each day that such intoxicating liquor shall be kept at the place of its destination after the expiration of seven days

from the time of its arrival, shall be deemed a separate infraction."

Sec. 2. The fact that there is now no adequate law requiring express companies, railroad companies or other common carriers to keep a book containing the transaction pertaining to the receipt, shipment and transportation and delivery of intoxicating liquor into prohibition territory, to be open to public inspection, creates an emergency and an imperative public necessity that the constitutional rule, requiring bills to be read on three several days, be and the same is hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, August 15, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred House bill No. 38, have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass and be printed in the Journal.

MEACHUM, Chairman.

Following is the bill in full:

H. B. No. 38. By Looney and Vaughan.

A BILL

To Be Entitled

An Act denouncing as a nuisance any place, room or building in any county, justice precinct, town, city or such subdivision of a county as may be designated by the commissioners court of said county, in which the sale of intoxicating liquors has been prohibited under the laws of this State, kept or used for the purpose of selling intoxicating liquor in violation of law, also denouncing as a nuisance any intoxicating liquor kept, possessed or used for such purpose and the tools, appliances and furniture used therewith, prescribing a suitable procedure for the search and seizure of any such liquor, tools, appliances and furniture, for the trial of the issue presented, the judgment to be rendered therein, also to prevent by means of the writ of injunction at the suit of the State or any citizen thereof, the use or the contemplated use, or threatened use of any such place, room or building or the keeping of any such intoxicating liquor and the tools, appliances and

furniture used therewith, for any such illegal purpose, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Any place, room or building in any county, justice precinct, town, city, or such subdivision of the county as may be designated by the commissioners court of said county in which the sale of intoxicating liquor has been prohibited under the laws of this State, kept, maintained or used for the purpose of selling intoxicating liquor in violation of law, and any intoxicating liquor kept or possessed for such purpose, whether kept or possessed in any such place, room or building or elsewhere, and any signs, screens, bars, bottles, glasses and any other furniture, tools, appliances or other articles or things used as aids in keeping and maintaining any such place, room or building, or any such liquor are each and all hereby declared to be a common nuisance.

Sec. 2. Upon affidavit being made by any credible person of the county where the proceeding is begun, before the county judge or a justice of the peace of said county, describing the place, room or building, as near as may be, where it is believed by the affiant that intoxicating liquor is being sold in violation of law, or is being kept or possessed for the purpose of being sold in violation of law, or shall name or describe, if the name is unknown, any person who has, keeps or possesses any intoxicating liquor for the purpose of sale in violation of law, or has, keeps or possesses any signs, screens, bars, bottles, glasses, furniture, tools, appliances or other articles or things, describing them, as near as may be, for the purpose of using such articles in the sale or in any manner as an aid to the unlawful sale of intoxicating liquor, then and in either event it shall be the duty of such county judge or justice of the peace, as the case may be, to issue a warrant, commanding the sheriff or any constable of the county, to immediately search such place, room or building, describing the same, as near as may be, or such person giving name or description, and it shall be the duty of said officer to whom said warrant is delivered by the county judge or justice of the peace to immediately search such place, room or building, or such person, and if refused admission into any such place, room or building, then and in such event the officer executing such warrant

shall be and is hereby authorized to force an entrance to any such place, room or building, using such force as may be necessary for that purpose, and he shall search for and seize the intoxicating liquor described in such warrant, which may be found in such place, room or building, or in the possession or under the control of such person named or described in said warrant, that is being kept or possessed for the purpose of being sold in violation of law and shall also seize all signs, screens, bars, bottles, glasses, furniture, tools, appliances or other articles or things which may have been described in said warrant as being used in keeping or maintaining such place, or used in any manner as an aid to the unlawful sale of intoxicating liquor; and after seizure he shall make an accurate inventory of everything seized, stating therein the reasonable market value of each item, and shall securely keep the same until replevied or otherwise disposed of under the provisions of this act.

Sec. 3. The search warrant above provided for shall, in substance, conform to the following requisites: It shall run in the name of the State of Texas and be directed to the sheriff or any constable of the county; it shall name the owner of the intoxicating liquor to be seized, if his name shall be known; it shall command him to search the place, room, premises, building, or any part thereof, or the person named in the complaint, and shall specify as near as may be the things to be searched for and seized and the owner thereof, when known, if not the same shall allege that the owner is unknown, and shall be signed officially by the magistrate issuing the same; provided, an immaterial variance between the complaint and warrant shall not render the latter void.

Sec. 4. At any time before the trial of the issues as provided herein, the owner of said property seized; or any part thereof, or the person in whose possession or under whose control the same was at the time of seizure, may replevy the same by giving bond with two or more good and sufficient sureties, or a solvent guaranty or surety company, chartered or authorized to do business under the laws of this State, to be approved by the officer making the seizure, or his successor in office, payable to the State of Texas, in an amount equal to the reasonable market value of the property replevied, as fixed on the inventory; conditioned that should said prop-

erty in said action be condemned as a nuisance, the obligors in such bond will pay to the State of Texas the reasonable cash market value of the property replevied at the time it was seized, and all costs, including 15 per cent addition on said amount as a fee to the county or district attorney who discharges such duty for the State, and 10 per cent on the amount thereof for the sheriff or constable.

Sec. 5. The officer executing said warrant shall, within fifteen days, make due return thereof to the county judge or the justice of the peace issuing the same, and when a seizure has been made thereunder he shall, within five days after said seizure, make said return, showing therein a list of the intoxicating liquor and other articles seized, the reasonable market value thereof, as fixed by him, and the replevy bond or bonds, if any given, and if not replevied, the name and residence of owner or owners of any such property seized and replevied, and if no one is known to be the owner, then the name or names and residence of the person, firm or corporation in whose possession or under whose control said liquor or other property was when seized; on return being made to said county judge or justice of the peace, he shall file said cause in the district court of said county; provided further, when two or more replevy bonds are given or where there are two or more owners or claimants to the property, or parts thereof seized, urging distinct and separate claims, then and in such event each case shall be filed and docketed separately in the district court of said county, and in such event said county judge or justice of the peace shall make and certify to as many copies of the original papers as there are cases, all of which shall be considered and treated as originals. The clerk of the district court of said county when said cause is filed shall docket the same in the name of the State of Texas, as plaintiff, and the principal in the replevy bond, and if not replevied the name of the owner or person found in possession as defendant.

Sec. 6. The clerk of the district court of said county shall immediately issue notice, which shall be served upon the defendant in the manner required for service of citation in civil suits; provided the defendant shall be required to answer, if served, ten days before the first day of the return term, excluding the day of service and return; and provided further, the defendant shall have

the right to expedite a trial of the issue by waiving service and time; said cause if tried by a jury shall be submitted on a special issue, which shall be in substance whether or not the intoxicating liquors and other property seized constituted a nuisance within the meaning of this act when seized. If no jury has been demanded by either side, then said issue shall be determined by the court. Said cause shall have precedence over all other cases except cases of like kind or cases to which the State is a party; the same shall be tried and prosecuted under the rules of evidence, practice and procedure, and in all other respects as other civil cases; and in case of appeal the transcript shall, without delay, be made up and forwarded by the clerk to the proper appellate court; provided, that the State shall not be required to pay or give security for costs, nor bond on appeal, and the same shall be perfected by notice thereof given in open court.

Sec. 7. The notice provided for in this act shall briefly recite the record upon which it is based; provided, that any immaterial variance between the writ and former proceedings will not be fatal thereto. It shall require the defendant to show cause by a day named, why the liquor and other articles seized should not be declared a nuisance; but the burden of proof shall be upon the State to show by a preponderance of the evidence that the allegations of the complaint are substantially true.

Sec. 8. The property when not replevied shall remain in the custody of the officer seizing or in that of his successor in office until final judgment, subject to such orders for the preservation of same as the judge of the district court of said county may make, either in term time or vacation as shall appear to be to the best interest of all parties concerned; provided, that the defendant in said suit may replevy the property at any time prior to final trial.

Sec. 9. Should the State prevail in the suit, the court shall enter a judgment condemning the property seized to be destroyed and against the defendant for all costs, and shall issue a proper writ directing the sheriff or any constable of the county to execute the same. The said writ shall conform in all material respects to the writ of execution, except that it shall command said officer, in addition to making levy sufficient to collect the amount of costs, to destroy said property in the manner

most suited to its nature. If the property, prior to the entry of said judgment, has been replevied, then judgment shall be entered against the principal and the sureties on such bond for an amount equal to the reasonable cash market value of the property at the time the same was seized, including 15 per cent thereof as attorney's fees and 10 per cent fee to the sheriff or constable, and the judgment, when collected, less the costs, shall be paid in to the county treasurer, and shall become a part of the jury fund of the county. Should the defendant prevail, judgment shall be entered restoring said property seized, to the defendant or discharging the principal and sureties on the replevy bond, as the case may be.

Sec. 10. It shall be the duty of the county attorney to represent the State in said cases and in all counties where there is a district attorney he shall assist the county attorney in the prosecution of all such suits. In all cases where the State recovers judgment there shall be taxed against the defendant as costs the usual fees allowed in civil cases, in addition to 15 per cent of the value of the property for the county or district attorney's fees, and 10 per cent of the value thereof for the sheriff and constable, which fees and costs shall not be accounted for by said officers under any provisions of law relating to fees of office; provided, however, that the State shall in no event be liable for or be required to pay any costs. Where the county attorney represents the State he shall be entitled to the fee of 15 per cent above provided, and where he is assisted in said civil case by the district attorney said fee shall be equally divided between them.

Sec. 11. The actual, threatened or contemplated use of any place, room; premises, building or part thereof, in any county, justice precinct, town, city or subdivision of a county, as may be designated by the commissioners court of said county, in which the sale of intoxicating liquors has been prohibited under the laws of this State, for the purpose of selling intoxicating liquor in violation of law, or in which to keep, store or deposit any intoxicating liquor for the purpose of being sold in violation of law, or the possession of or having under control or management at any such place, or any intoxicating liquor for the purpose and with the intent to sell the same in violation of

law, shall be enjoined at the suit of the State or of any citizen thereof.

Sec. 12. Any person, company, corporation or association of persons who may so use, or be about to use, or who may aid or assist in any such actual or threatened use of such place, room, premises, building or part thereof, or any person who may have, possess or manage for any such purpose any intoxicating liquor, or who may aid or assist another in thus possessing, having or maintaining or managing intoxicating liquor for such purpose, may be made a party defendant to such suit.

Sec. 13. The Attorney General and the several district and county attorneys shall institute and prosecute all such injunction suits that the said Attorney General or district or county attorney may deem necessary; provided, that such suit may be brought and prosecuted by any one of said officers; and, provided further, that nothing contained herein shall prevent said injunction from issuing at the suit of any citizen of this State who may sue in his own name, and any such citizen shall not be required to show that he is personally injured by reason of the matters and things of which he complains.

Sec. 14. The procedure in all cases brought hereunder shall be the same as in other suits for injunction, or where injunction is sought as near as may be; provided, that where the suit is brought in the name of the State by any of the officers aforesaid, the petition therefor need not be verified, nor shall the State be required to pay or give security for costs or on appeal, and appeal by the State shall be perfected by giving notice thereof in open court, and all such cases shall have precedence on the docket of all courts where pending.

Sec. 15. In any proceeding under the provisions of this act, evidence of the general reputation of the house, place, building, premises or part thereof, or of the business, occupation or pursuit of the defendant involved, may be admitted in evidence as tending to prove the allegations of the complaint; provided, that in any investigation no person shall be exempt from giving testimony therein, but the testimony given by a witness shall not be used against him in any criminal action or proceeding nor shall any criminal action or proceeding be brought against such witness on account of any testimony so given by him.

Sec. 16. The insufficiency of the laws

of this State to prevent the violation of local option laws, and the fact that this session of the Legislature will end by law in a few days, create an emergency and an imperative public necessity demanding the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

SEVENTEENTH DAY.

Senate Chamber,
Austin, Texas,
Tuesday, August 16, 1910.

Senate met pursuant to adjournment. Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum being present, the following Senators answering to their names:

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Ratliff.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Terrell of Wise.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Kauffman. Veale.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Kellie, the same was dispensed with.

(See Appendix for committee reports.)

EXCUSED.

On account of important business:

Senator Veale for yesterday, today and tomorrow, on motion of Senator Sturgeon.

SIMPLE RESOLUTION.

By Senator Cofer:

Whereas, House bill No. 15, known as the day light bill, and which provides

for the closing of saloons from 7 o'clock p. m. to 7 o'clock a. m., passed the House of Representatives by almost a two-thirds vote and was read in the Senate and referred to Judiciary Committee No. 2; and

Whereas, Said Judiciary Committee No. 2 has refused to consider said House bill but has postponed consideration of same until 11:59 a. m. August 18, 1910, a time beyond adjournment of the present session of the Legislature; and

Whereas, Such action of said committee is tantamount to a refusal to permit the Senate to act upon said House bill and can have no other meaning but that these Senators and those standing with them on anti-saloon legislation are opposed to the day light bill and favor saloons remaining open at night; and

Whereas, It is nothing but fair and just to the other branch of the Legislature to have its bill on so important a subject reported out to the Senate for our respectful consideration and hearing and this bill should not be smothered to death in committee, especially as those taking this unseemingly action pretend to favor the night closing law; therefore, be it

Resolved by the Senate, That Judiciary Committee No. 2 be directed to forthwith report said House bill to the Senate by 12 o'clock m. August 16, 1910, so that the Senators of the Texas Senate may go upon record as favoring or opposing the night closing of saloons.

COFER,
STURGEON,
TERRELL of Wise,
BRACHFIELD,
TERRELL of Bowie,
BRYAN,
MAYFIELD,
HOLSEY,
RATLIFF,
WARD,
ALEXANDER,
PERKINS,
GREER.

The resolution was read and Senator Cofer moved the adoption of same, and upon that motion moved the previous question. The previous question being duly seconded was so ordered.

The motion to adopt the resolution was lost by the following vote:

Yeas—13.

Alexander.	Greer.
Brachfield.	Holsey.
Bryan.	Mayfield.
Cofer.	Perkins.